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FLETCHER YODER (LUCENT)				
P.O. BOX 692289				
HOUSTON, TX 77069				
EXAMINER				
WENDELL, ANDREW				
ART UNIT		PAPER NUMBER		
2618				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/799,815

Applicant(s)

MERBOTH ET AL.

Examiner

ANDREW WENDELL

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6, 13, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mantha et al. (US Pat Appl# 2004/0023622) in view of Lachar et al. (US Pat Pub# 2003/0125039).

Regarding claim 1, Mantha et al. system for allocating power teaches a device for allocating power comprising a power sharing module configured to receive a plurality of signals corresponding to at least one predicted power allocation (Sections 0015-0017 and 0080 or 105 of Fig. 4) and at least one current power allocation 110 and 115 (Fig. 4) and to determine from the plurality of signals whether a first industry standard (Section 0048) wireless system (voice service) corresponding to a first wireless service has un-utilized transmission power 115 and 120 (Fig. 4); and a scheduler configured to receive an indication to allocate the un-utilized transmission power from the first wireless service of the first industry standard (Section 0048) wireless system to the second wireless service of a second industry standard (Section 0048) wireless system (data service) and utilize the indication to allocate the un-utilized transmission power for

the second wireless service 125 (Fig. 4, Sections 0008-0010 and 0057-0069). Mantha fails to teach a first and second industry standard wireless system.

Lachtar teaches a first industry standard wireless system 104, 108A/B, and 110A/B (Fig. 1) and a second industry standard wireless system 106, 112A/B, and 114A/B (Fig. 1); and wherein the first industry standard wireless system and the second industry standard wireless system are distinct industry standard wireless systems (both BTS 108A and 108B or 110A and 110B [Fig. 1] are separate which therefore are distinct industry standard wireless systems since they have different coverage areas etc.). Note, Lachtar deals with allocation (Figs. 1 and 2) between two systems (applicant does not state the two systems are specifically different, ex. CDMA2000 1x for the first and CDMA 2000 1x EVDV for the second) which is similar to applicant's invention of power allocation.

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a first and second industry standard wireless system as taught by Lachtar into Mantha's power allocating system in order to reduce failures (Sections 0007-0008).

Regarding claim 6, the combination including Mantha teaches wherein the power sharing module provides the scheduler with the indication to allocate the un-utilized transmission power within a 2 power control group interval (Sections 0008-0010 and 0057-0069).

Regarding claim 13, Mantha et al. teaches providing a first wireless system (voice service, V sub 1 to V sub V of Fig. 1) and a second wireless system (data

service, D sub 1 to D sub z of Fig. 1) for a plurality of wireless units 44 and 48 (Fig. 1); obtaining a plurality of input signals corresponding to a plurality of predicted transmission power allocations (Sections 0015-0017 and 0080 or 105 of Fig. 4) and a plurality of current transmission power allocations 110 and 115 (Fig. 4); determining from the plurality of input signals whether the second wireless system may utilize transmission power from the first wireless system 110 and 115 (Fig. 4); and allocating transmission power to the second wireless from the first wireless system for at least one communication channel based on an indication of transmission power that is un-utilized by the first wireless service system 110, 115, 120, and 125 (Fig. 4, Sections 0008-0010 and 0057-0069). Mantha fails to teach a first and second industry standard wireless system.

Lachtar teaches a first industry standard wireless system 104, 108A/B, and 110A/B (Fig. 1) and a second industry standard wireless system 106, 112A/B, and 114A/B (Fig. 1) and wherein the first industry standard wireless system and the second industry standard wireless system are distinct industry standard wireless systems (both BTS 108A and 108B or 110A and 110B [Fig. 1] are separate which therefore are distinct industry standard wireless systems since they have different coverage areas etc.). Note, Lachtar deals with allocation (Figs. 1 and 2) between two systems (applicant does not state the two systems are specifically different, ex. CDMA2000 1x for the first and CDMA 2000 1x EVDV for the second) which is similar to applicant's invention of power allocation.

Regarding claim 17, the combination including Mantha teaches wherein the plurality of wireless units comprises a plurality of cellular telephones (Sections 0046-0047).

Regarding claim 18, the combination including Mantha teaches wherein the plurality of wireless units comprises at least one portable computer system (Sections 0046-0047).

Regarding claim 19, Mantha et al. teaches receiving a plurality of input signals corresponding to at least one predicted power allocation (Sections 0015-0017 and 0080 or 105 of Fig. 4) for a first wireless system (voice service, $V_{sub 1}$ to $V_{sub V}$ of Fig. 1) and at least one current power allocation for the first wireless service system 110 and 115 (Fig. 4) and a second wireless system (data service, $D_{sub 1}$ to $D_{sub z}$ of Fig. 1); determining from the plurality of input signals whether non-utilized transmission power from the first wireless system may be allocated to the second wireless system 110 and 115 (Fig. 4); and providing an indication to allocate non-utilized transmission power from the first wireless system to the second wireless system to a scheduler 110, 115, 120, and 125 (Fig. 4, Sections 0008-0010 and 0057-0069). Mantha fails to teach a first and second industry standard wireless system.

Lachar teaches a first industry standard wireless system 104, 108A/B, and 110A/B (Fig. 1) and a second industry standard wireless system 106, 112A/B, and 114A/B (Fig. 1) and wherein the first industry standard wireless system and the second industry standard wireless system are distinct industry standard wireless systems (both BTS 108A and 108B or 110A and 110B [Fig. 1] are separate which therefore are distinct

industry standard wireless systems since they have different coverage areas etc.).

Note, Lachtar deals with allocation (Figs. 1 and 2) between two systems (applicant does not state the two systems are specifically different, ex. CDMA2000 1x for the first and CDMA 2000 1x EVDV for the second) which is similar to applicant's invention of power allocation.

Regarding claim 20, the combination including Mantha teaches the act of allocating the non-utilized transmission power based on the indication to allocate non-utilized transmission power from the first wireless system to the second wireless system for transmissions to a wireless unit (Sections 0008-0010 and 0057-0069). Mantha fails to teach a first and second industry standard wireless system.

Lachtar teaches a first industry standard wireless system 104, 108A/B, and 110A/B (Fig. 1) and a second industry standard wireless system 106, 112A/B, and 114A/B (Fig. 1).

3. Claims 2-5, 14-16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mantha et al. (US Pat Appl# 2004/0023622) in view of Lachtar et al. (US Pat Pub# 2003/0125039) and further in view of Jeon et al. (US Pat Appl# 2004/0253928).

Regarding claim 2, Mantha et al. system for allocating power in view of Lachtar teaches the limitations in claim 1. Mantha and Lachtar fails to teach the first wireless service having CDMA200 1x service.

Jeon et al. power allocation method and apparatus for providing packet data service in mobile communication system teaches a wireless service comprises a CDMA2000 1x service (Section 0091).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate CDMA200 1x service as taught by Jeon et al. into a first and second industry standard wireless system as taught by Lachar into Mantha et al. system for allocating power in order to improve performance (Sections 0015-0016).

Regarding claim 3, Jeon further teaches a 1x system (Section 0091).

Regarding claim 4, Jeon further teaches a wireless service comprises a CDMA2000 1x evolution data and voice (EVDV) service (Section 0004).

Regarding claim 5, Jeon further teaches wherein the second industry standard wireless system comprises an EVDV system.

Regarding claim 14, Jeon further teaches a first industry standard wireless system comprises a CDMA2000 1x service (Section 0091).

Regarding claim 15, Jeon teaches a wireless system comprises a CDMA2000 1x evolution data and voice (EVDV) service system (Section 0004).

Regarding claim 16, Mantha further teaches transmitting the at least one communication channel to at least one of the second portion of the plurality of wireless units (Sections 0044-0053).

Regarding claim 21, Jeon further teaches a wireless service comprises a CDMA2000 1x evolution data and voice (EVDV) communication channel (Section 0004).

4. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mantha et al. (US Pat Appl# 2004/0023622) in view of Lachtar et al. (US Pat Pub# 2003/0125039) and further in view of Kang (US Pat Appl# 2001/0016503).

Regarding claim 8, Mantha et al. system for allocating power teaches a first baseband (voice service) system that communicates with a first group of the plurality of wireless units 44 (Fig. 1) via a first plurality of communication channels (Fig. 1, V sub 1 to V sub V); and a second baseband system (data service, D sub 1 to D sub z of Fig. 1) that communicates with a second group of the plurality of wireless units 48 (Fig. 1) via a second plurality of communication channels, the first and second baseband systems sharing a platform 24 and 40 (Fig. 1, voice and data systems coming from the same base station) the second baseband system comprising a power sharing module configured to receive a plurality of signals corresponding to a plurality of predicted power allocation (Sections 0015-0017 and 0080 or 105 of Fig. 4) and a plurality of current power allocations 110 and 115 (Fig. 4) and to determine from the plurality of signals whether the second baseband system may allocate power from the first baseband system 110 and 115 (Fig. 4); and a scheduler configured to receive an indication to allocate un-utilized transmission power to the second baseband system from the first baseband system and to utilize the indication to allocate un-utilized transmission power for the second plurality of communication channels 110, 115, 120,

and 125 (Fig. 4, Sections 0008-0010 and 0057-0069). Mantha fails to teach a first and second industry standard wireless system and a channel card.

Lachtar teaches a first industry standard wireless system 104, 108A/B, and 110A/B (Fig. 1) and a second industry standard wireless system 106, 112A/B, and 114A/B (Fig. 1) and wherein the first industry standard wireless system and the second industry standard wireless system are distinct industry standard wireless systems (both BTS 108A and 108B or 110A and 110B [Fig. 1] are separate which therefore are distinct industry standard wireless systems since they have different coverage areas etc.). Note, Lachtar deals with allocation (Figs. 1 and 2) between two systems (applicant does not state the two systems are specifically different, ex. CDMA2000 1x for the first and CDMA 2000 1x EVDV for the second) which is similar to applicant's invention of power allocation.

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a first and second industry standard wireless system as taught by Lachtar into Mantha's power allocating system in order to reduce failures (Sections 0007-0008).

Mantha and Lachtar fail to teach a channel card.

Kang's CDMA base station system teaches a radio frequency system having a channel card 103 (Fig. 1) configured to communicate with a plurality of wireless units 111 and 112 (Fig. 1).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a channel

card as taught by Kang into a first and second industry standard wireless system as taught by Lachtar into Mantha et al. system for allocating power in order to minimize the deterioration of the call quality in a CDMA system (Section 0020).

Regarding claim 10, Kang further teaches wherein the channel card comprises at least one transceiver 104 and 105 (Fig. 1) configured to communicate with the plurality of wireless units 111 and 112 (Fig. 1).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mantha et al. (US Pat Appl# 2004/0023622)) in view of Lachtar et al. (US Pat Pub# 2003/0125039) and further in view of Kang (US Pat Appl# 2001/0016503) and further in view of Hongo et al. (US Pat Appl# 2003/0022639).

Regarding claim 9, Mantha et al. system for allocating power in view of Lachtar and further in view of Kang's CDMA base station system teaches the limitations in claim 8. Mantha, Lachtar, and Kang fail to teach determining a power average and instant power of a signal.

Hongo et al. peak limiter and multi-carrier amplification apparatus teaches a power system that determines a radio frequency output power average 11 (Fig. 3) and an instant radio frequency power 12 (Fig. 3).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate determining a power average and instant power of a signal as taught by Hongo et al. into a channel card as taught by Kang into a first and second industry standard wireless system as

taught by Lachtar into Mantha et al. system for allocating power in order to enhance the power efficiency (Section 0031).

6. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mantha et al. (US Pat Appl# 2004/0023622) in view of Lachtar et al. (US Pat Pub# 2003/0125039) and further in view of Kang (US Pat Appl# 2001/0016503) and further in view of Jeon et al. (US Pat Appl# 2004/0253928).

Regarding claim 11, Mantha et al. system for allocating power in view of Lachtar and further in view of Kang's CDMA base station system teaches the limitations in claim 8. Mantha, Lachtar and Kang fail to teach a CDMA2000 1x service.

Jeon et al. power allocation method and apparatus for providing packet data service in mobile communication system teaches a wireless system comprises a CDMA2000 1x service (Section 0091).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate CDMA200 1x service as taught by Jeon et al. into a channel card as taught by Kang into a first and second industry standard wireless system as taught by Lachtar into Mantha et al. system for allocating power in order to improve performance (Sections 0015-0016).

Regarding claim 12, Jeon et al. further teaches a wireless system comprises a CDMA2000 1x evolution data and voice (EVDV) service (Section 0004).

Response to Arguments

Applicant's Remarks	Examiner's Response
"However, there is no teaching in the	Lachtar clearly teaches allocating

<p>Lachtar reference of either allocating transmission power or providing an indication to allocate non-utilized transmission power from the first industry standard wireless system to the second industry standard wireless system, as recited in independent claims 1, 13, and 19.”</p>	<p>transmission power (Fig. 2) between a first industry standard wireless system 108a (Fig. 1, first BTS) and a second industry standard wireless system 108B (Fig. 1, second BTS).</p>
<p>“As such, there is no teaching in the Lachtar reference that suggests allocating or sharing of power of between the distinct systems, as recited in independent claims 1, 13, and 19.”</p>	<p>Lachtar teaches distinct systems. BTS 108A and 108B are two different systems with different mobile units communicating and coverage areas. Examiner recommends the applicant to further define how the two industry systems are specifically different instead of a generic limitation just stating they are just different without any further details.</p>
<p>“The Jeon reference, however, does not teach or show power sharing between a first and a second industry standard wireless system, wherein the systems are distinct, as recited in independent claims</p>	<p>In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of</p>

<p>1, 13, and 19.”</p>	<p>references. See <i>In re Keller</i>, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); <i>In re Merck & Co.</i>, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). See above remarks.</p>
<p>“The Kang reference, also applied in the rejection of claim 8, fails to cure the deficiency of the Mantha reference and the Lachtar reference in teaching allocating un-utilized transmission power between a first and a second baseband system where the baseband systems are distinct baseband systems.”</p>	<p>In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See <i>In re Keller</i>, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); <i>In re Merck & Co.</i>, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). See above remarks.</p>
<p>“The Hongo reference fails to obviate the deficiencies of the Mantha, Lachtar, and Kang references with respect to independent claim 8.”</p>	<p>In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See <i>In re Keller</i>, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); <i>In</i></p>

	<i>re Merck & Co.</i> , 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). See above remarks.
"The Jeon reference, however, does not disclose allocation of un-utilized transmission power for the second plurality of communication channels and wherein the first baseband system and the second baseband systems are distinct baseband systems as set forth in claim 8."	In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See <i>In re Keller</i> , 642 F.2d 413, 208 USPQ 871 (CCPA 1981); <i>In re Merck & Co.</i> , 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). See above remarks.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW WENDELL whose telephone number is (571)272-0557. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Wendell/
Examiner, Art Unit 2618

/Nay A. Maung/
Supervisory Patent Examiner, Art
Unit 2618

8/8/2008